**REMARKS** 

The above-referenced patent application has been reviewed in light of the Final Office

Action mailed June 28, 2006 in which claims 1, 5, 6, 10, 11, 15, 16, 19, 23, 25, 26, 28-34 and

36-38 are rejected under 35 U.S.C. § 102(b) as anticipated by Clark et al. (US Patent 5,187,780 –

"Clark"). An after final response and amendment was filed on August 28, 2006. But in an

Advisory Action mailed on September 26, 2006 the Examiner did not enter the amendments

made in that after final response and maintained rejections to the current claims. In response,

Applicants respectfully disagree with the rejections in the Final Office Action and to not entering

the amendments as stated in the Advisor Action. However, to expedite an allowance of this

application, Applicants file this RCE and include the amendments made in the after final

response as a Preliminary Amendment to the RCE.

**Current Status of Claims:** 

With this Preliminary Amendment, claims 1, 5, 6, 10, 11, 15, 16, 19, 23, 25, 26, 28-34

and 36-38 remain pending. Applicants offer to amend claims 1, 5, 6, 10, 11, 16, 19, 32, 33 and

38 as presented above. No new matter has been introduced to this application.

Application No. 10/040,605 Atty. Docket No. P13764 Examiner Choudhury Art Unit 2145

## Rejections under 35 U.S.C. § 102(b):

Relevant portions of claim 1, as currently amended, are as follows:

"An apparatus comprising:

a general input/output communication port to implement a communication stack including a physical layer, a data link layer and a transaction layer, the transaction layer to include assembling a packet header for a request transaction packet to one or more logical devices, the packet header including:

a format field to ...; and

a type field to...wherein the <u>format field and the</u> <u>type field together specify the format for the packet</u> <u>header.</u>"

Emphasis added.

Clark does not describe the above emphasized portions of currently amended claim 1.

First, Clark fails to describe, either explicitly or implicitly, the implementation of a communication stack as emphasized above. Second, the message packet (20) described by Clark does not include a format field. See Col. 4, lines 66 to Col. 5, line 21 and Fig. 2. As a result, Clark includes no description of the format and type fields together specifying the format for the packet header as emphasized above for claim 1. Thus, based at least on these two points, the Final Office Action fails to establish a prima facie case of anticipation and Applicants request that the 35 U.S.C. § 102(b) rejection of claim 1 be withdrawn.

Independent claims 6, 11 and 19, as currently amended, include similar elements to the above emphasized portions of claim 1. Additionally, claims 5, 10, 15, 16, 23, 25, 26, 28-34 and 36-38 depend from one of independent claims 1, 6, 11 and 19. Thus, Applicants request that the 35 U.S.C. § 102(b) rejections of independent claims 6, 11 and 19 and dependent claims 5, 10, 15, 16, 23, 25, 26, 28-34 and 36-38 be withdrawn.

## **Conclusion**

Applicants respectfully submit that claims 1, 5, 6, 10, 11, 15, 16, 19, 23, 25, 26, 28-34 and 36-38 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number 50-0221.

Respectfully submitted, Harriman et al.

Date: \_October 28, 2006

by: /s/Ted A. Crawford/Reg. No. 50,610/

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